REMARKS

Claims 1-4, 6-21 and 23-39 are now pending in the present application. Claims 1, 6, 7, 14, 17, 18, 23, 25-27, 36 and 39 have been amended, and Claims 5 and 22 have been cancelled, herewith. Reconsideration of the claims is respectfully requested.

I. Objection

The Examiner objected to Claims 17, 26, and 39, requiring correction of the claim sequencing. Claim 17 depends upon an independent claim (Claim 1), Claim 26 depends upon an independent claim (Claims 18), and Claim 39 depends upon an independent claim (Claim 27). Because these claims all depend upon independent claims, and since a dependent claim may refer to *any* preceding independent claim, Claims 17, 26 and 39 are in the proper order/sequence with respect to the other claims. This proper sequencing of claims in their current form was confirmed with the Examiner in a phone interview on June 2, 2005. Therefore, the objection to the claims is shown to be improper.

II. 35 U.S.C. § 102, Anticipation

The Examiner rejected Claims 1-8, 14-17, 25, 27-30 and 36-39 under 35 U.S.C. § 102(e) as being anticipated by Lazaridis et al (U.S. Patent No. 6,401,113). This rejection is respectfully traversed.

Claim 1 has been amended herewith to include features previously recited in Claim 5 (which is thus being cancelled herewith). As amended, Claim 5 recites "pushing, over the wireless network to the wireless device, a request to backup data, wherein the step of pushing the request comprises sending a textual based service load to a proxy server, *wherein the proxy server is configured to translate textual based service loads to binary based service loads and send the translated service loads to the wireless device*" (emphasis added by Applicants). In rejecting Claim 5 (whose features are now included in amended Claim 1), the Examiner states that Lazaridis teaches the features of Claim 5 at column 6, lines 9-17 and Figure 1, element 20 (the wireless gateway). Applicants urge that per Lazaridis, the wireless gateway 20 forms a connection or bridge between the WAN 18 and some other type of network (column 6, lines 8-9). The wireless gateway operation is further described at column 8, lines 44-55. Applicants urge

that this wireless gateway does not provide any type of translation of textual based service loads to binary service loads, as this gateway merely forms a connection or bridge between networks, as evidenced by the fact that a message sent through this gateway must be encapsulated in an envelope with remote device addressing information such that the gateway knows where to send a received message (column 8, lines 47-55). This is further shown at column 8, line 63 – column 9, line 1 where command messages sent to this gateway also require an encapsulating envelope for proper addressing. This establishes that the Lazaridis gateway is not an intelligent gateway that has capabilities for translating service loads from one form (textual based) to another (binary), but rather merely provides a connection capability from one network to another.

The Examiner goes on to state, in rejecting Claim 5, that this wireless gateway must inherently convert textual based service loads to binary service loads in order to send data from a wireline network to a wireless network. Applicants urge that this is certainly not the case. As described in the previous paragraph, Lazaridis' wireless gateway merely provides a connection between networks. This wireless gateway requires processing to be done by other computers to ensure proper address routing, thus evidencing that this wireless gateway does not have an ability to convert or translate text to binary. Otherwise, it would provide proper addressing to a wireless device without the need for envelope encapsulation but other devices. As a further showing that this feature is not inherent in the teachings of Lazaridis, Applicants urge that in order to provide such a gateway connection, there is no requirement to convert textual based service loads to binary service loads. "To establish inherency," the Federal Circuit recently stated, "the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.'" *In re Robertson*, 169 F.3d 743, 745 [49 USPQ2d 1949] (Fed. Cir. 1999); see also *Continental Can Co. U.S.A., Inc. v. Monsanto Co.*, 948 F.2d 1264, 1268 [20 USPQ2d 1746] (Fed. Cir. 1991). Such inherency may not be established by "'probabilities or possibilities.'" *Continental Can*, 948 F.2d at 1269 (quoting *In re Oelrich*, 666 F.2d 578, 581 [212 USPQ 323] (C.C.P.A. 1981)). It is therefore shown that the features of Claim 5, which are now included in amended Claim 1, are not inherent with respect to the teachings of Lazaridis.

It is thus urged that Lazaridis does not anticipate amended Claim 1, as every element of the claimed invention is not identically shown in a single reference. For a prior art reference to anticipate in terms of 35 U.S.C. 102, *every element* of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990) (emphasis added by Applicants).

Applicants initially traverse the rejection of Claims 2-4 and 6-8 for reasons given above with respect to Claim 1 (of which Claims 2-8 depend upon).

Still further with respect to Claim 6, Applicants urge that the cited reference does not teach the claimed feature of wherein the service load provides a uniform resource *identifier for an application that the wireless device may retrieve* to transmit the data to the server. In rejecting Claim 6, the Examiner states that Lazaridis teaches a service load that provides a uniform resource identifier for an application that the wireless may retrieve to transmit the data to the server at column 4, lines 40-45. Applicants urge that this assertion is inconsistent with the Examiner's position with respect to the Lazaridis teaching with respect to Claim 5. In rejecting Claim 5 (whose features are now a part of Claim 1), the Examiner alleges that Lazaridis' wireless gateway reads on the claimed proxy server, and this wireless gateway inherently converts textual based loads to binary service loads. Yet in rejecting Claim 6, the Examiner takes the position that Lazaridis' teaching at column 4, lines 40-45 teaches the features of Claim 6. Applicants show that there, Lazaridis states (the entire paragraph is being reproduced herein to provide the proper context for the cited passage):

> "In an alternative system and method, the redirector program executes on a network server, and the server is programmed to detect numerous redirection event triggers over the network from multiple user desktop computers coupled to the server via a LAN. The server can receive internal event triggers from each of the user desktops via the network, and can also receive external event triggers, such as messages from the users' mobile data communication devices. In response to receiving one of these triggers, the server redirects the user's data items to the proper mobile data communication device. The user data items and addressing information for

> a particular mobile device can be stored at the server or at the user's PC. Using this alternative configuration, one redirector program can serve a plurality of users. This alternative configuration could also include an internet- or intranet-based redirector program that could be accessible through a secure webpage or other user interface. The redirector program could be located on an Internet Service Provider's system and accessible only through the Internet."

As can be seen, this cited passage is with respect to an alternative system that includes a global redirector program located on a server that can support multiple user desktops and their corresponding wireless devices. As to the passage specifically recited by the Examiner in rejecting Claim 6, this server could be located on an Internet Service Provider's system and accessible only through the Internet (as shown at Lazaridis Figure 2, elements 11 and 12). In contrast, Claim 6 specifically recites that the service load (which is the subject of a translation by a proxy server, and such proxy server is alleged by the Examiner to be equivalent to Lazaridis' wireless gateway 20 of Figure 2) provides a uniform resource identifier for an application that the wireless device may retrieve to transmit the data to the server. Restated, the service load that is *translated by the proxy server* per Claim 6 provides a uniform resource locator for an application that the wireless device may retrieve to transmit the data to the server. Lazaridis' wireless gateway (which is alleged to be the claimed proxy server) does not translate any type of service load that provides a uniform resource identifier for an application that the wireless device may retrieve to transmit the data to the server. At best, Lazaridis' wireless gateway (alleged to be the claimed proxy server which performs translation of a service load) takes a received message that has previously been wrapped in an outer envelope and sends such message to the wireless device using addressing information added as a part of the outer envelope (column 8, lines 44-55). This enveloped message does not contain any type of uniform resource identifier for an application that the wireless device may retrieve to transmit the data to the server, as expressly recited in Claim 6. Thus, it is shown that Claim 6 has been erroneously rejected, as every element of the claimed invention is not identically shown in a single reference.

Further with respect to Claim 7, such claim has been amended to include features described in the present Specification at page 16, line 26 - page 17, line 14. Applicants urge that the cited reference does not teach any type of such application retrieval for execution by the claimed wireless device. The features of Claim 7 are particularly useful for a wireless device having limited resources for performing a data backup operation, as described at Specification page 17, line 24 – page 18, line 3. In contrast, and to the extent Lazaridis may suggest an ability to transfer data from the wireless device to a host, a redirector program is resident in the remote device (column 4, lines 46-56; column 6, lines 56-62), and thus is not requested for and received by a wireless device. Thus, Claim 7 is further shown to not be anticipated by the cited reference.

With respect to Claim 14 (and dependent Claims 15 and 16), such claim recites a method for backing up data. The method comprises steps of (1) responsive to receipt of a command from a backup server via a wireless network to backup data, retrieving, without user intervention, the data to be backed up from storage within a wireless client; and (2) transmitting, without user intervention, the data to be backed up to the backup server via the wireless network utilizing a wireless protocol. Claim 14 has been amended to recite that the command from the backup server to backup data comprises a location of an application to be executed by the wireless client to transmit the data to be backed up to the backup server. The cited reference teaches a resident redirector program located on the wireless device, as thus does not teach or otherwise suggest the features of amended Claim 14, for similar reasons to those described above with respect to Claim 6. Thus, Claim 14 is shown to not be anticipated by the cited reference.

With respect to Claim 17, Applicants have amended such claim to be in independent form, to include the features previously recited in Claim 1 (of which Claim 17 previously depended upon). Applicants urge that the cited reference does not teach the claimed features of receiving a request for backed up data from a the wireless client, retrieving the backed up data corresponding to the wireless client, and transmitting the backed up data to the wireless client via the wireless network. In rejecting Claim 17, the Examiner merely relies upon the reasoning given with respect to Claims 1-6, and rejects Claim 17 "under the same rationale". Applicants urge that Claim 17 is a further extension of Claim 1, and is specifically directed a technique for retrieving *backed up*

data that was previously stored pursuant to the steps of Claim 1. Applicants have amended Claim 17 to further emphasize this distinction, and urge that Claims 1-6 are not directed to retrieving backed-up data, and hence the Examiner's reliance on the reasoning given in rejecting Claims 1-6 is shown to not establish a teaching of the claimed features recited in Claim 17 with respect to *retrieving backed up data*. Thus, it is urged that Claim 17 is not anticipated by the cited reference, as there are numerous claimed features not taught by the cited reference, as described above.

Applicants traverse the rejection of Claim 25 for similar reasons to those given above with respect to Claim 14.

Applicants traverse the rejection of Claims 27-30 for similar reasons to those given above with respect to Claim 1.

Applicants traverse the rejection of Claims 36-38 for similar reasons to those given above with respect to Claim 14.

Applicants traverse the rejection of Claim 39 for similar reasons to those given above with respect to Claim 17, and urge that none of the cited references teach or suggest the claimed features with respect to retrieving backed up data.

Therefore, the rejection of Claims 1-8, 14-17, 25, 27-30 and 36-39 under 35 U.S.C. § 102 has been overcome.

III. 35 U.S.C. § 103, Obviousness

The Examiner rejected Claims 9-13, 18-24, 26 and 31-35 under 35 U.S.C. § 103 as being unpatentable over Lazaridis et al (U.S. Patent 6,401,113) in view of Zarom (U.S Patent No. 6,356,529). This rejection is respectfully traversed.

With respect to Claim 9 (and similarly for Claims 10-13), such claim recites a method *operating on a proxy server* for facilitating data backup. In rejecting Claim 9, the Examiner cites numerous passages as teaching certain claimed steps, and yet these steps are not a part of the proxy server operation, which is alleged to be Lazaridis' wireless gateway 20. For example, the Examiner states that the claimed step on a proxy server of receiving a request from a backup server for a wireless client to backup data to the backup server is taught by Lazaridis at column 7, lines 31-34, column 4, lines 45-56 and column 4, lines 46-56. Applicants urge that the passage cited at column 7 describes

network events that are transmitted to a host system from another computer system, and is not directed to any type of operation step with respect to a proxy server (which, according to the Examiner, is equivalent to Lazaridis' gateway server 20 of Figure 1). Similarly, both of the passages cited at column 4 are directed to a redirector program, which is specifically stated to be executed on the host system and the user's mobile device (column 4, lines 46-48). This redirector program does not execute on the wireless gateway (which is stated by the Examiner to be the claimed proxy server), and thus this cited passage does not teach or otherwise suggest the claimed feature of "A method *on a proxy server* for facilitating data backup, the method comprising: receiving a request in a first protocol from a backup server for a wireless client to backup data to the backup server" (emphasis added by Applicants), as expressly recited in Claim 9. There are similar teaching/suggestion deficiencies in numerous of the other steps recited in Claim 9 – where the Examiner cites passages as reading on the claimed operation of a proxy server and yet these cited passages are not with respect to any operation of a proxy server - and thus the Examiner has failed to properly establish a prima facie showing of obviousness with respect to Claim 9. To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03 (emphasis added by Applicants). *See also, In re Royka*, 490 F.2d 580 (C.C.P.A. 1974). Thus, it is urged that Claim 9 has been erroneously rejected as a prima facie showing of obviousness has not been established by the Examiner. If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

Applicants traverse the rejection of Claims 18-23 for similar reasons to those given above with respect to Claim 1.

Applicants further traverse the rejection of Claim 23 for similar reasons to the further reasons given above with respect to Claim 6.

Applicants traverse the rejection of Claim 24 for similar reasons to those given above with respect to Claim 9.

Applicants traverse the rejection of Claim 26 for similar reasons to those given above with respect to Claim 17, and urge that none of the cited references teach or suggest the claimed features with respect to retrieving backed up data.

Applicants traverse the rejection of Claims 31-35 for similar reasons to those given above with respect to Claim 9.

Therefore, the rejection of Claims 9-13, 18-24, 26 and 31-35 under 35 U.S.C. § 103 has been overcome.

IV. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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